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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/826,207

04/16/2004

Jerry H.C. Lee

25341A

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7590

06/12/2006

OWENS CORNING  
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EXAMINER

MATZEK, MATTHEW D

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/826,207

Applicant(s)

LEE ET AL.

Examiner

Matthew D. Matzek

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-3, 5-15 and 17-23.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

  
**NORCA TORRES  
PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Miller and Marzocchi et al. are from different fields of endeavor. Examiner disagrees as both references teach asphalt covered fiberglass building materials. Applicant argues that Marzocchi et al. teach glass flakes while Miller et al. teach glass fiber. Applicant is directed to col. 2, lines 12-16 which teaches that the use of glass fibers in asphalt is well known in the art and further teaches the use of glass fibers in col. 6, lines 33-40. Applicant argues that Miller et al. fails to suggest the improvement of the adhesion between the substrate and the asphalt is necessary. The motivation to improve the adhesion between the asphalt and the fibers is provided by Marzocchi et al. Applicant argues that there is no suggestion in Marzocchi et al. that the use of their materials would improve tear strength as recited in the present claims. It is reasonable to presume that said properties are inherent to Marzocchi et al. through the use of like materials, i.e., glass fibers sized with sulfurous silane composition and coated with an organic material. Applicant argues that the addition of Marzocchi et al. would not improve the tear strength. Examiner disagrees with this assessment as improving the adhesion between the matrix and reinforcing fibers makes a composite more difficult to tear because of the enhanced properties at the interface between the two phases. Applicant argues that Miller et al. and Williams et al. are from the same field of endeavor. Examiner disagrees as both references teach composites comprising fiberglass in organic matrices. Applicant argues that Miller et al. do not teach any need to improve the adhesion between the substrate and the asphalt because Miller et al. teach that "the typical roofing material construction is suitable under most circumstances." According to that statement there is certainly room for improvement in the article of Miller et al. and especially in improving the adhesion between its two phases. Applicant argues that the addition of Williams et al. would not improve the tear strength. Examiner disagrees with this assessment as improving the adhesion between the matrix and reinforcing fibers makes a composite more difficult to tear because of the enhanced properties at the interface between the two phases.